In the High Court of Uttaranchal, at Nainital

Criminal Misc. Application No. 276/2001
(Old No. 1620/2000)

Gopal Lal and 10 others .....Applicants.

Versus

1. State of U.P.
2. Shiv Lal S/o Gulabu Lal
   R/o Village Dangi, P.C. Pathalidhar,
   Tehsil Ukhimath, District
   Rudraprayag .....Respondents.

Sri Pankaj Purohit, learned counsel for the applicants.
Sri G.S. Sandhu, learned A.G.A. for the State.

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr. P.C. has been filed by the applicants who are the accused in Criminal Case No. 251/1997 Shiv Lal Vs. Gopal Lal and others, U/Ss 147, 323, 504, 506 I.P.C. The petitioners have prayed for quashing the aforesaid criminal proceedings as well as the impugned summoning order dated 15-7-1997 passed by the Chief Judicial Magistrate, Chamoli.

2. Brief facts of the case are that the First Information Report was lodged by Shsiv Lal S/o Gulabu Lal against the petitioners for the aforesaid offences. On account of this incident, complainant Shiv Lal sustained injuries at the hands of the petitioners/accused and he was medically examined in the hospital.

3. Learned counsel for the petitioners has argued that no prima-facie case is made out against the petitioners. He has also submitted that according to the prosecution version twelve persons were armed with

Lathi-Dandas and they beat the complainant with kicks and fists and Lathis and Dandas, but the complainant received only lacerated wound on right side of upper forehead; contusion on right side of shoulder; lacerated wound on right toe and multiple abrasions on elbow forehead and left hand, which is not probable.

4- Learned counsel for the petitioners also submitted that with regard to the incident a written report was also lodged by the complainant with Naib Tehsildar Ukhimath on 18-6-1997 and on the basis of this F.I.R. a case U/Ss 323, 147, 504, 506 I.P.C. was registered at Patwari Circle Chandrapuri but this fact was suppressed by the complainant from the Court and got his witnesses examined U/S 202 Cr. P.C.

5. So far as the contention with regard to the lodging of F.I.R. before Naib Tehsildar is concerned, record reveals that the written report was filed on 18-6-1997 and after investigation final report was submitted by the Police on 29.6.1997 and the case instituted on the written F.I.R. did not proceed any further.

6. Having considered the arguments advanced by the learned for the petitioners, I am of the view that there is no abuse of process of the court in this case.

7- While exercising the power under Section 482 Cr. P.C., it would not be justified on my part in going through the disputed question of fact by appreciating the documents and the evidence produced before me by treating them as evidence produced before me by treating them as evidence to hold the accused persons as innocent because it will amount the pre-trial of a

criminal case. I am not supposed to embark upon an enquiry whether the allegations in the prosecution case are likely to establish by evidence or not. In this petition, I am concerned only to examine whether the First Information Report or the complaint or the material collected by the prosecution taken on their face value and accepted in entirety, prima-facie constitutes an offence or makes out a case against the accused persons. I am not supposed to pre-judge the police papers and the discrepancies, if any, therein. The allegations made in the First Information Report and the material collected by the Investigating Report and the material collected by the Investigating Officer during the investigation are referred to in making out a prima facie case of the offence. I don't find any ground to quash the proceedings at this stage by appreciating evidence.

8. The petition lacks merit and is liable to be dismissed.

9. Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

10. However, in case, if the applicants appear before the court for seeking their bail, the court concerned shall expedite the disposal of their bail applications.

(B.C. Kandpal, J.)

Dt. 20.07.2006
ISB